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RECORD OF DECISION

IN THE MATTER OF

GERALD HILL

W-36748

TYPE OF HEARING: Review

DATE OF HEARING: February 8, 2006

DATE OF DECISION: July 17, 2006

PARTICIPATING BOARD MEMBERS: Daniel Dewey, Doris Dottridge, Candace Kochin, Thomas Merigan, Deborah McDonagh, Maureen Walsh.

DECISION OF THE BOARD: Reserve after 6 months in pre-release.

Special Conditions: Approve home plan before release. Waive work for 2 weeks or program. Supervise for drugs; testing required. Supervise for liquor abstinence; testing required. Report to assigned MA parole office on day of release. No contact with victim's family. Alcoholics Anonymous at least 3 times per week.

Mr. Hill was before the Massachusetts Parole Board on February 8, 2006 for a review hearing on the Second Degree Life sentence and concurrent Manslaughter sentence he is currently serving.

The facts of the governing offenses are as follows. On October 22, 1977, Mr. Hill and three co-defendants engaged in argument with Mr. Leo Murphy in the area of Washington Street, Boston. During the assault, one of the assailants pulled out a knife and stabbed Mr. Murphy in the chest while he was being held on the ground. The group then fled the area and Mr. Murphy later died as a result of the stab wound to the heart. Mr. Hill was later apprehended by the Boston Police Department and charged with Manslaughter.

While on bail for the charge of Manslaughter of Leo Murphy, Mr. Hill was again in the company of several companions when they decided to rob an oil delivery truck. The driver of the truck, Mr. Max Fishman, was delivering oil to families in need due to the blizzard of 1978.

Mr. Hill and his two co-defendants approached Mr. Fishman and demanded his money. The victim was unarmed but one of Mr. Hill's co-defendants was carrying a firearm. Mr. Hill's co-defendant shot the victim and the three fled the area. Mr. Fishman died as a result of the injuries sustained by the shooting.

Mr. Hill pled guilty to Murder in the Second Degree for the killing of Mr. Fishman and to a 12 to 20 year concurrent sentence for the Manslaughter of Mr. Murphy. Under the applicable rules of the Commonwealth, he was eligible for parole in 1993 after serving fifteen years of incarceration. Since that time, Mr. Hill has been before the Massachusetts Parole Board on at least five separate occasions and has been denied parole on each of those occasions.

Now, after serving twenty eight years incarcerated, Mr. Hill is before the Massachusetts Parole Board seeking parole consideration. For the following reasons, the majority of the Board believes that his release is warranted under the circumstances. First, it is important to note Mr. Hill's age at the time of the convictions; as he was sixteen years old when released on bail and seventeen when convicted of both crimes. Second, not to diminish his responsibility for his participation in the deaths of Mr. Murphy and Mr. Fishman, it is also relevant to consider that he was the non-assailant on both of these crimes. Third, Mr. Hill has now been incarcerated for twenty-eight years; having served thirteen years more than his initial parole eligibility. Fourth, Mr. Hill, who is now forty-four years old, has matured and developed into an individual with several positive attributes. He has advanced his educational goals by obtaining his G.E.D. as well as completing a six month computer course. Mr. Hill addressed his criminal behavior by attending and graduating the Correctional Recovery Academy, a six month intensive cognitive behavioral program that addresses both anger management and substance abuse. He also has regularly attended NA/AA during his incarceration and has indicated that while he does not believe that he is addicted to any substance, he would abide by any conditions of parole to attend substance abuse treatment if released into the community.

The Board does note that his institutional behavior was poor for a significant period of time; in fact, his disruptive and sometimes violent behavior while incarcerated was noted by the Parole Board when denying his parole. In the last five years, however, Mr. Hill's disciplinary infractions have decreased significantly. This Board vote is conditioned upon positive, disciplinary free behavior.

Fifth, and finally, Mr. Hill has presented a solid plan for reintegration. Among others, he has the support of his family, who has offered housing and of Marshall Stanton, a youth minister who has been supportive of Mr. Hill when he was in the custody of the Department of Youth Services. The majority of the Board is of the opinion that gradual reintegration into the community via a pre-release setting, will afford Mr. Hill the opportunity to become a stable and law abiding citizen of the community.

Dissent:

Gerald Hill was on bail for a Manslaughter offense when he involved himself in the murder of Max Fishman. Subsequently he plead guilty to both offenses. Since his incarceration, Mr. Hill's institutional adjustment has been considerably poor. He has incurred 65 disciplinary reports and many of them have been assaultive in nature. Disciplinary reports have continued since his last hearing. Gerald Hill's continued negative and violent behavior precludes him from being considered a viable candidate for community supervision. His release at this time is not compatible with the welfare of society.

Board Member 1: Concur.
Board Member 2: Concur.
Board Member 3: Concur w/[ith] final vote. Inmate must remain D[isciplinary report] free.
Board Member 4: Concur with vote #1. Inmate must remain D[isciplinary] report free.
Board Member 5: Denied. [Review in] 3 years.
Board Member 6: Denied. [Review in] 3 years.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.

Daniel V. Linnipke
Executive Director

7/19/06
Date